

#### **IC 6-3.1-4**

##### **Chapter 4. Research Expense Credits**

#### **IC 6-3.1-4-1**

##### **Definitions**

Sec. 1. As used in this chapter:

"Base amount" means base amount (as defined in Section 41(c) of the Internal Revenue Code as in effect on January 1, 2001).

"Base period Indiana qualified research expense" means base period research expense that is incurred for research conducted in Indiana.

"Base period research expense" means base period research expense (as defined in Section 41(c) of the Internal Revenue Code before January 1, 1990).

"Indiana qualified research expense" means qualified research expense that is incurred for research conducted in Indiana.

"Qualified research expense" means qualified research expense (as defined in Section 41(b) of the Internal Revenue Code as in effect on January 1, 2001).

"Pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; or
- (4) a limited liability partnership.

"Research expense tax credit" means a credit provided under this chapter against any tax otherwise due and payable under IC 6-3.

"Taxpayer" means an individual, a corporation, a limited liability company, a limited liability partnership, a trust, or a partnership that has any tax liability under IC 6-3 (adjusted gross income tax).

*As added by P.L.51-1984, SEC.1. Amended by P.L.57-1990, SEC.1; P.L.8-1993, SEC.85; P.L.8-1996, SEC.7; P.L.192-2002(ss), SEC.86.*

#### **IC 6-3.1-4-2**

##### **Amount of credit; computation**

Sec. 2. A taxpayer who incurs Indiana qualified research expense in a particular taxable year is entitled to a research expense tax credit for the taxable year in the amount of the product of:

- (1) ten percent (10%); multiplied by
- (2) the remainder of the taxpayer's Indiana qualified research expenses for the taxable year, minus:
  - (A) the taxpayer's base period Indiana qualified research expenses, for taxable years beginning before January 1, 1990; or
  - (B) the taxpayer's base amount, for taxable years beginning after December 31, 1989.

*As added by P.L.51-1984, SEC.1. Amended by P.L.53-1984, SEC.1; P.L.57-1990, SEC.2; P.L.192-2002(ss), SEC.87.*

#### **IC 6-3.1-4-3**

**Unused credits carried forward**

Sec. 3. (a) The amount of the credit provided by this chapter that a taxpayer uses during a particular taxable year may not exceed the sum of the taxes imposed by IC 6-3 for the taxable year after the application of all credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter. If the credit provided by this chapter exceeds that sum for the taxable year for which the credit is first claimed, then the excess may be carried over to succeeding taxable years and used as a credit against the tax otherwise due and payable by the taxpayer under IC 6-3 during those taxable years. Each time that the credit is carried over to a succeeding taxable year, it is to be reduced by the amount which was used as a credit during the immediately preceding taxable year. The credit provided by this chapter may be carried forward and applied to succeeding taxable years for fifteen (15) taxable years following the unused credit year.

(b) A credit earned by a taxpayer in a particular taxable year shall be applied against the taxpayer's tax liability for that taxable year before any credit carryover is applied against that liability under subsection (a).

(c) A taxpayer is not entitled to any carryback or refund of any unused credit.

*As added by P.L.51-1984, SEC.1. Amended by P.L.57-1990, SEC.3; P.L.192-2002(ss), SEC.88.*

**IC 6-3.1-4-4****Application of Internal Revenue Code provisions**

Sec. 4. The provisions of Section 41 of the Internal Revenue Code as in effect on January 1, 2001, and the regulations promulgated in respect to those provisions and in effect on January 1, 2001, are applicable to the interpretation and administration by the department of the credit provided by this chapter, including the allocation and pass through of the credit to various taxpayers and the transitional rules for determination of the base period.

*As added by P.L.51-1984, SEC.1. Amended by P.L.57-1990, SEC.4; P.L.192-2002(ss), SEC.89.*

**IC 6-3.1-4-5****Qualified research expenses; determination**

Sec. 5. In prescribing standards for determining which qualified research expenses are considered Indiana qualified research expenses for purposes of computing the credit provided by this chapter, the department may consider:

- (1) the place where the services are performed;
- (2) the residence or business location of the person or persons performing the services;
- (3) the place where qualified research supplies are consumed;
- and
- (4) other factors that the department determines are relevant for the determination.

*As added by P.L.51-1984, SEC.1.*

#### **IC 6-3.1-4-6**

##### **Federal credit expiration date inapplicable**

Sec. 6. Notwithstanding Section 41 of the Internal Revenue Code, the termination date in Section 41(h) of the Internal Revenue Code does not apply to a taxpayer who is eligible for the credit under this chapter for the taxable year in which the Indiana qualified research expense is incurred.

*As added by P.L.51-1984, SEC.1. Amended by P.L.53-1984, SEC.2; P.L.57-1990, SEC.5; P.L.43-1992, SEC.10; P.L.76-1993, SEC.1; P.L.19-1994, SEC.9; P.L.8-1996, SEC.8; P.L.4-2000, SEC.13; P.L.192-2002(ss), SEC.90; P.L.224-2003, SEC.191; P.L.81-2004, SEC.12.*

#### **IC 6-3.1-4-7**

##### **Pass through entity; shareholder or partner**

Sec. 7. (a) If a pass through entity does not have state income tax liability against which the research expense tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a research expense tax credit equal to:

- (1) the research expense tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

(b) The credit provided under subsection (a) is in addition to a research expense tax credit to which a shareholder or partner of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and a shareholder or partner of the pass through entity may not claim a credit under this chapter for the same qualified research expenses.

*As added by P.L.57-1990, SEC.6.*